IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2379 OF 2006

Amit Suresh Kulkarni .. Applicant

Versus

State of Maharashtra .. Respondent

M/s.J.Shekhar & Co. for applicant

Mr.P.S.Hingorani, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 23rd August 2006.

P.C.

. Learned Counsel for applicant points out that miscellaneous application for bail preferred before the trial court on behalf of applicant (original accused No.9 - Exh.16), was rejected by

the Special Judge under MCOCA, Pune on 3rd April 2004.

2. Learned Counsel then submits that during the pendency of special case and after the order rejecting his bail delivered by the Special Judge, this Court in the same C.R. i.e. (C.R.No.289 of 2003 registered with Swargate Police station) has enlarged the original accused Nos.5, 10 and 11 on bail. So also in all fairness, he submits that bail application of accused Nos. 1 and 7 has been rejected by this Court.

3. In my view, if the learned Counsel wants to rely upon the orders passed in the case of a co-accused, better course would be to file fresh application and to point out to the trial court the material which led to this Court delivering an order favourable to other accused. The court would also be informed of the role of the present

applicant in the crime allegedly committed. Similarly, an opportunity, would also be available to distinguish the orders in case of the co-accused, who have been denied bail. Since the trial court had no occasion to consider all this material and the order passed by it was delivered on 3rd April 2004, instead of this Court going into all these aspects, interest of justice would be sub-served if the applicant is granted opportunity to approach the trial court requesting it to release him on bail and such request, if made, would be considered on its own merits and in accordance with law, uninfluenced by the observations in the earlier order. All contentions of both sides are kept open. Application disposed of.

(S.C.Dharmadhikari, J)